

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
2010 Quadrennial Regulatory Review-)	MB Docket No. 09-182
Review of the Commission's Broadcast)	
Ownership Rules and Other Rules Adopted)	
Pursuant to Section 202 of the)	
Telecommunications Act of 1996)	
)	
Promoting Diversification of Ownership)	MB Docket No. 07-294
In the Broadcasting Services)	

**Comments of
Communications Workers of America
The Newspaper Guild-CWA
National Association of Broadcast Employees and Technicians-CWA**

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SUMMARY

The Commission's broadcast media ownership rules are based on the First Amendment principle that the widest possible dissemination of information from diverse and antagonistic sources is essential to public welfare. As the Commission has repeatedly stated and as the Courts have consistently confirmed, common ownership of media reduces viewpoint diversity and competition. The Third Circuit Court of Appeals ("Third Circuit Court") in *Prometheus v FCC* affirmed the authority of the Commission to regulate media ownership to foster viewpoint diversity, local identity and prevent undue concentration of economic power. Additionally, the Third Circuit Court acknowledged that structural rules limiting concentrated ownership of the media are necessary to protect and promote the free and vibrant press that is so vital to our democracy.

This is the time for the Commission to accept the guidance of the Courts and keep or enact rules that foster viewpoint diversity, competition and open up broadcast ownership opportunities for women and minorities. The Commission should make rule changes that encourage news and information to be delivered to a diverse viewer/listener/readership. Rule changes should not be enacted that are likely to end up with more concentrated ownership, not less.

Without addressing the obligation of the Commission to promote diversity in media ownership for women and minorities, the Commission should hold off on changing any rules that could allow for more media concentration.

The changing landscape of media consumption, creation and distribution, such as through the use of mobile access to content or high speed broadband, should not lead the Commission to the conclusion that many existing media-ownership limitations are no longer necessary in the public interest.

With the 2014 Quadrennial Review practically upon the Commission, the Communications Workers of America specifically would like the Commission to reject any changes to media ownership rules that would allow for more consolidation and media concentration until the landscape becomes clearer and the Commission has carefully and properly studied the lack of ownership opportunities and representation for women and minorities.

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I. Introduction

The Communications Workers of America (CWA) represents more than 45,000 people who work in the various media industries as journalists, technicians, printers, online writers and producers, and customer service and sales representatives. CWA members know firsthand how consolidation has harmed the local news and information market for citizens. Local broadcast of news and information is still a major factor for profitability of stations. Multichannel video programming distributors (“MVPDs”) have spawned new ways to deliver content but there are not yet new sources of content that can compete with the resources of broadcasters.

Television suffered financially through the recent Great Recession, as did many other forms of media news and entertainment. The fears of television sinking into bankruptcy as happened to many newspaper publishing groups never came to pass and revenues and profits have rebounded. Unfortunately, broadcast owners continue to flout the rules and continue to create shared services agreements which amount to nothing less than allowing one owner to control the news content for two or more local stations. The result is a blow to local viewpoint diversity and job losses for the industry, while doing nothing to expand original local news reporting.

Newspapers also suffered greatly from the severe downturn in 2008 and 2009. If one were to judge by the stock prices of public companies, the industry would appear to have stabilized. But, the reality is newspapers continue to lose revenue for the print product and online revenues do not approach amounts necessary to keep owners from cutting newsroom budgets. No one is sure what amount of original reporting is lost nor at what cost it comes if important issues are not getting covered for an informed citizenry. Yet, the CWA is certain the answer is not more consolidation and media concentration among newspapers and television. That prescription threatens to solidify the

viewpoint diversity to a select few and make it more difficult for the many new online news sites to establish a foothold to compete with traditional media.

II. Ownership Rules are Necessary to Protect and Promote Localism

A. The Third Circuit Court Validated the Commission's Right to Limit Common Ownership Of Media Outlets in Order to Promote Viewpoint Diversity

To encourage viewpoint diversity, the FCC should err on the side of caution when considering rule changes that could result in too few independent voices locally. Without adequate competition from diverse voices, the information needs for local communities will not be fairly addressed. The Commission should be mindful that rule changes can have a negative impact on viewpoint diversity and, therefore, can harm the needs of local communities.¹

We are pleased the Commission continues to recognize the importance of preserving and promoting viewpoint diversity.² In *Prometheus Radio Project v. FCC*, the Third Circuit Court of Appeals confirmed the importance of viewpoint diversity.³ That limiting common ownership promotes viewpoint diversity should be self-evident. Media Study No. 9 uses a model to demonstrate that more independent media outlets leads to more viewpoint diversity.⁴ The CWA agrees the study supports retaining the top-four merger prohibition for local markets.

¹ See, *The Information Needs of Communities*, 310 Localism <http://www.fcc.gov/info-needs-communities>.

² See, *NPRM 2010 Quadrennial Regulatory Review*, 17. We reaffirm our belief that media ownership limits are necessary to preserve and promote viewpoint diversity. Furthermore, we also reaffirm our conclusion that viewpoint diversity is generally promoted by competition among independently owned media outlets.

³ The Court has said that limiting common ownership is a reasonable means of promoting the public interest in viewpoint diversity. NCCB, 436 U.S. at 796, 436 U.S. 775. Therefore, applying NCCB, we hold that the Commission's continued regulation of the common ownership of newspapers and broadcasters does not violate the First Amendment rights of either. *Prometheus Radio Project v. FCC*, United States Court of Appeals, Third Circuit.

⁴ *FCC Media Study No. 9*: Brocas, Carrillo and Wilkie, June 2011 http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-307525A1.pdf

B. Co-Owned Newspaper/Television Combinations Reduce Viewpoint Diversity

Speaking on the proposals to allow more newspaper-broadcast properties, former Commissioner Michael J. Copps understood the risk when he said, “It means **fewer voices in the community, less localism in the industry**, and steep transactional costs that all too often lead to down-sized or shuttered newsrooms and fired journalists.”⁵ The proposals to allow for more newspaper/television combinations will reduce viewpoint diversity and, at the same time, make success for new competition in the marketplace more difficult, despite the low barriers to enter the local news and information business.

The Commission should reject the re-introduced proposal which would allow more newspaper-broadcast combinations.⁶ Reviewing the landscape today calls for leaving the old rules in place. Though the Court did not address the merits of the rules issued in the 2006 proceedings, it does not mean the proposed rules are in the best interests of local communities nor does it mean they would have been accepted by the Court. The Commission should heed the message in the Recommendations of the Waldman Report: It is now clear that in many communities the dominant online players in local news are the new media manifestations of old media companies, most notably the websites of local newspapers and TV newscasts. Policymakers should be mindful of this dynamic.⁷

CWA members who are part of The Newspaper Guild (TNG-CWA), know full well the problems that have plagued the newspaper business. TNG-CWA has members at more than 100 daily newspapers in the United States and Puerto Rico. TNG-CWA has 28,000 members who are media workers. TNG-CWA represents more than 15,000 journalists in North America.

⁵ *NPRM 2010 Quadrennial Regulatory Review*, Statement of Commissioner Michael J. Copps.

⁶ *2006 Quadrennial Regulatory Review MB Docket No. 06-121*.

⁷ *See, The Information Needs of Communities*, 345.

CWA members have seen incredibly talented co-workers rushed out the door in an effort to preserve profit margins and/or pay down crushing debt, while at the same time owners have found no easy answers to falling advertising revenues. Everyone connected to the news industry is watching what will become of daily newspapers and the reporting they provide – staff, owners, readers, future journalists and advertisers, in particular. But, the Commission should not look at television as a lifeline for local newspapers. The news business was and is changing. There are many new forms of journalistic enterprises being created for local news.⁸ Some have already failed. New ways to engage communities and report news have yet to be imagined. But, until then, most local news is generated by newspapers and television.⁹ Further concentration of the media would keep the current dominant local media outlets for news and information – that is newspapers and television news – in control of the conversation. The Commission can best foster innovation and viewpoint diversity by keeping the media market from becoming more concentrated. That would give new ventures more time to capture a larger share of the advertising market and, therefore, give start ups a better chance to survive and grow. The Commission should collect more data on just how dominant television and newspapers are to online and mobile local news and information.

C. Common Ownership Of Television Stations In The Same Market Reduces Viewpoint Diversity

The Commission is correct to keep the local television ownership rules with the modifications proposed. There is no need at this time for a waiver for small markets. Local broadcasters have not made sufficient use of multicasting channels and can use those channels to increase news and information for communities.

⁸ Michele McLellan, *Niche News Sites*, Donald W. Reynolds Journalism Institute, <http://umrji.prod.acquia-sites.com/news/micheles-list-promising-local-news-sites>; The Nonprofit Journalism Hub <http://www.npjh.org/organizations>.

⁹ *The Information Needs of Communities*, 123.

The Communications Workers of America funded a study by University of Delaware Professor Dr. Danilo Yanich, which examined local news broadcasts in DMAs with two or more television stations with shared services agreements (SSAs). The study best illustrates the need for independent ownership of media outlets in local markets, with or without SSAs.¹⁰ While Dr. Yanich only studied television newscasts for DMAs that have SSAs, the results are easily transferable to what surely would happen if the Commission proceeds with changing media ownership rules to allow more duopolies within local markets. Many of the newscasts were found to be the same or similar on two and sometimes three stations. This clearly should fail a test for viewpoint diversity.

The fact is, with respect to local news, many of the SSAs arrangements behave as if the stations are commonly owned. The study reviewed actual newscasts in a variety of DMA sizes. The study coded and then compared the newscasts for stations in markets where SSAs exist. Dr. Yanich found, “From these findings we know that, for the most part, **SSA and LMA stations took advantage of the arrangement to present stories on a combination of their stations**. Given the nature of the agreements, we could expect that result.” (emphasis added).

Because the National Association of Broadcast Employees and Technicians-CWA (NABET-CWA) has witnessed too many job losses from SSAs, the CWA funded an independent study by Dr. Yanich about the effects of SSAs on local news broadcasting. LNAs and SSAs have meant job losses for our members as stations eliminated jobs at the expense of news coverage. In testimony at the FCC hearing at Stanford in 2010, the NABET-CWA President Jim Joyce testified:

“For example, Barrington Broadcasting and Granite Broadcasting simply swapped control of broadcasting in two cities where they used to compete in the Syracuse, NY and Peoria, IL

¹⁰ *Local TV News & Service Agreements: A Critical Look*, Dr. Danilo Yanich, Center for Community Research & Service, Local Television News Media Project, School of Public Policy & Administration, University of Delaware, Oct. 2011 www.udel.edu/ocm/pdf/DYanichSSAFINALReport-102411.pdf.

markets. One entire television station worth of newsgathering workers were laid off in each city. Now Granite Broadcasting runs WVEK, WHOI and WAOE in Peoria. In Syracuse, WTVH, WSTM and WSTQ are all operated out of one building, one studio, with one set of news crews on the street – those of Barrington Broadcasting. At WTVH 40 workers lost their jobs with the combination, but even more troubling is the fact that the Syracuse market lost a competing and different point of view in news coverage. Since our union didn't represent the people in Peoria, we don't know the extent of job loss there, but we know that the viewers there lost diversity of news coverage."¹¹

There could not be a starker example of the harm done to viewpoint diversity. The efficiencies gained in such agreements exist by repeating stories on multiple stations.

The harm to viewpoint diversity is illustrated at the management level, too. At a hearing held by the FCC in 2006, Joyce testified that Fox owns two stations in Los Angeles, KTTV-channel 11 and KCOP-channel 13. Fox acquired the second station from ChrisCraft after gaining FCC approval for a duopoly. The result is there is one General Manager, one News Director and one assignment editor overseeing both stations.¹²

In comments to the FCC, the National Association of Broadcasters claim that “common ownership can increase viewpoint diversity, as owners of multiple stations seek to capture the greatest possible audience share by diversifying their news and public interest program offerings among co-owned properties.”¹³ But, the evidence from the SSA study has shown otherwise. It is alarming to think the Commission would believe owners of multiple stations would significantly diversify their news programming among their properties in light of the practices for SSAs.

¹¹ *Remarks of James Joyce, NABET-CWA President, FCC Media Ownership Workshop, Stanford, CA: The Impact of New Media on Broadcast Stations* (video) <http://transition.fcc.gov/ownership/workshop-052110.html>

¹² *Remarks of James Joyce, NABET-CWA President, FCC Public Hearing on Media Ownership, El Segundo, CA, Oct. 3, 2006* <http://apps.fcc.gov/ecfs/document/view?id=6518526549>.

A more direct example of what happens to localism when duopolies occur comes from the testimony of Joyce at the Stanford University hearing:

“In 2006, I testified at the El Segundo portion of the FCC Media Ownership Hearings held in the Los Angeles area. At the time NABET and the CWA were concerned over newsgathering being done by duopolies in that market: KCAL/KCBS (CBS) and KCOP/KTTV (FOX). At the time the CBS duopoly was running the KCAL/KCBS news operations in unison. So much so, that I presented a video of the wrong station logos appearing on each other’s broadcasts. However, FOX, to their credit, was running a separate news operation, with separate reporters and editorial staffs for their duopoly at KCOP/KTTV. Sadly, in the intervening time since the last FCC Ownership Rules Review, the consolidation of newsgathering has run rampant. In the case of KCOP and KTTV, FOX has now combined once separate newsrooms into one, with only one set of reporters and editorial staff for both stations and the newscast on KCOP is indistinguishable from the newscast on KTTV, in Los Angeles, the nation’s second largest TV market. This makes a mockery of the FCC’s longstanding media goals to promote diversity, competition, and localism in exchange for a broadcaster’s right to use the public’s airwaves.”¹⁴

D. Shared Services Agreements Violate the Spirit and the Intent of the Rules

See March 5, 2012, comments of Office of Communication of United Church of Christ, Inc., et al, including CWA and Media Council Hawaii.

¹³*NPRM 2010 Quadrennial Regulatory Review*, 29.

¹⁴ *Joyce, NABET-CWA President, FCC Public Hearing on Media Ownership.*

III. Television And Newspapers are Still the Dominant Source For Local News and Information

When it comes to local news and information, newspapers, television news and public affairs programming still generate the lion's share of stories for communities, as the Pew Center study of Baltimore¹⁵ and the Michigan State University¹⁶ studies found. Yes, barriers to entry are low, as noted in *The Information Needs of the Community* report.¹⁷ But, the cheaper content creation and content distribution are available in large measure to newspapers and television, too. And, as the newspaper owners know too well, the online earnings for advertising revenue do not approach the revenue from their print publications. The report that 12 online news start-ups, profit and non-profit, have just 88 reporters among them shows how difficult it will be to scale up to catch the down-sized newsrooms of television and newspapers.¹⁸

The problem for the Commission is not to allow newspaper/television combinations but for the Commission to allow an environment for experimentation and growth for all local media enterprises, established or not.

The Commission seeks comments on how to treat Study 4 with regards to the amount of news produced by markets with cross-owned properties.¹⁹ We repeat that cross-ownership harms viewpoint diversity and ownership opportunities for women and people of color. The CWA does not believe this study takes these important factors into account. Further, the study recognizes limitations that

¹⁵ *How News Happens: A Study of the News Ecosystem of One American City*. And of the stories that did contain new information nearly all, 95%, came from traditional media—most of them newspapers. These stories then tended to set the narrative agenda for most other media outlets. http://www.journalism.org/analysis_report/how_news_happens.

¹⁶ *News Media Coverage of City Governments in 2009* These three media [daily newspapers, weekly newspapers and broadcast television] generated 88.6% of all items about central city governments and 93% of all items about suburban city governments. Radio (of both types) played a minor role in both types of cities, providing 8.4% of items about central city government and 6.3% of items about suburban city government http://quello.msu.edu/sites/default/files/pdf/PEJ_City_Govt_report-final.pdf.

¹⁷ *The Information Needs of the Community* 122.

¹⁸ *The Information Needs of the Community* 124.

¹⁹ *NPRM 2010 Quadrennial Regulatory Review*, 98.

make it impossible for the Commission to use this as a basis for testing cross-ownership quality as it relates to local news.

First, the study notes the data is not based on the actual content that is aired.²⁰ Dr. Yanich's study demonstrates the importance for the Commission to create actual data from newscasts to understand what the market is delivering.²¹ By reviewing actual newscasts, Dr. Yanich found instances of repeated, sometimes story for story, newscasts in multiple markets.

Second, the Study 4 notes increased news minutes means increased amount of news produced.²² There is no reason to believe "it is likely the case that "quality" news minutes are at least somewhat correlated with "scheduled" news minutes." In fact, the NPRM and the Waldman report show very clearly the number of newsroom jobs are lower despite the increases in minutes aired for local news.

IV. The Commission Must Adopt Rules to Enable a More Level Playing Field for Minority and Women Ownership Opportunities

See the March 5, 2012 Leadership Conference on Civil and Human Rights letter to the Commissioners.

V. Newspaper/Television Combinations Will Drag Down Television Financials While at the Same Time Fail to Save Newspapers

A. New Ways to Produce, Distribute and Consume News and Entertainment Has Not Dealt a Death Blow to the Television Business

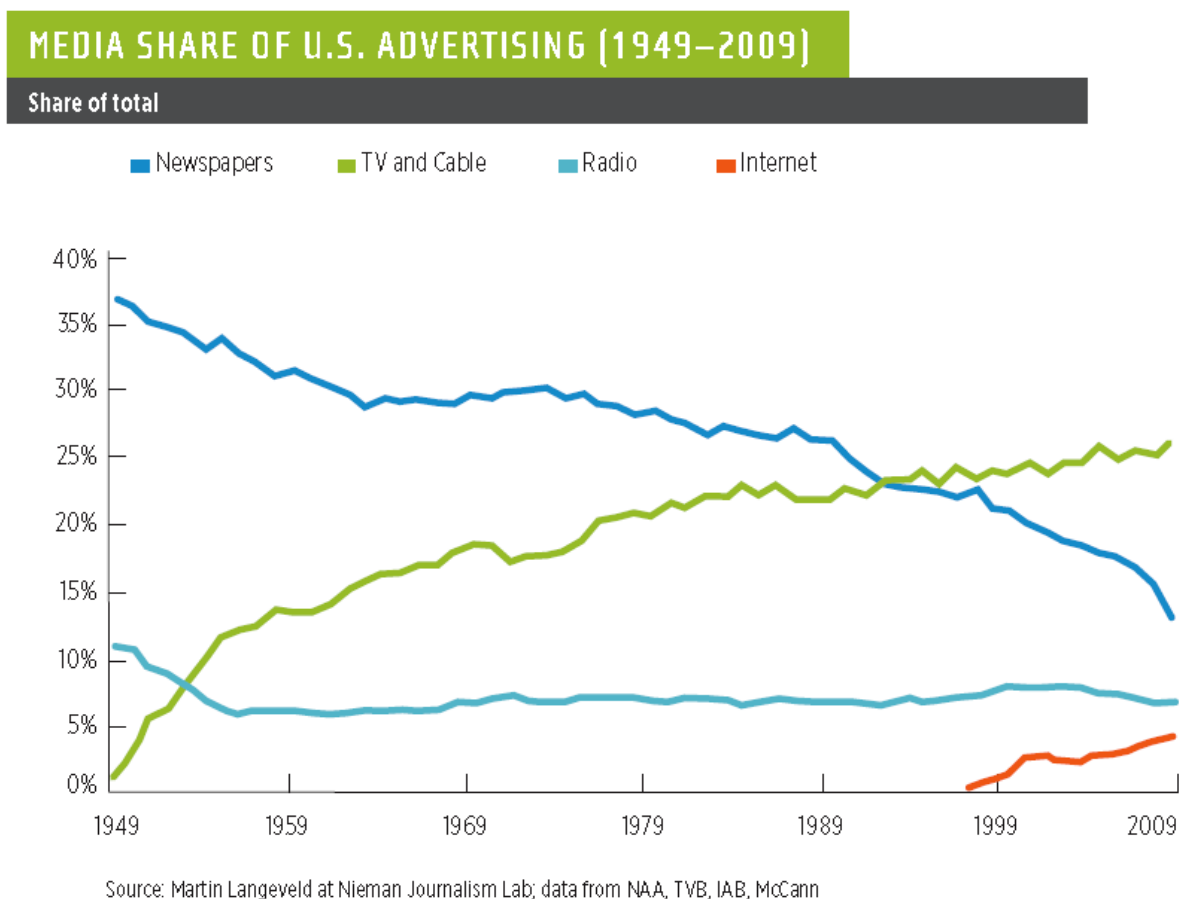
As it relates to Broadcast ownership on the local television level, one of the goals of the Commission is to see that competition has an opportunity to enable the market for news and information to evolve. The failure of the previous two Quadrennial Reviews should demonstrate the existing rules are "necessary in the public interest." In the intervening years there have been tremendous changes in the media market. Yet, broadcast TV remains a major and profitable part of

²⁰ Study #4, *Local Information Programming and the Structure of Television Markets 14*, May 20, 2011.

²¹ *Local TV News & Service Agreements: A Critical Look*.

²² Study #4, *Local Information Programming and the Structure of Television Markets 14*.

the media industry. That competition for ad dollars for media ad dollars includes the growing online sector is a positive development for the consumer. The chart on media share of advertising demonstrates less media concentration is a good thing.²³



There are two things the Commission should keep in mind when considering the evolving consumption of media by consumers.

1. The role of the Commission is to allow for vibrant competition, not ensure a fixed profit margin for Broadcasters.

²³ *The Information Needs of the Community* 75.

2. Broadcasters (and newspapers) get to participate in the evolving forms of consumption and the CWA believes the Commission can best achieve its policy goals by not allowing traditional forms of media to dominate the growing online advertising revenue streams.

B. More Newspaper/Television Combinations are the Wrong Answer for the Newspaper Business

Testifying at the Commission's Ownership workshop, Bernie J. Lunzer, President TNG-CWA, noted, "Most consolidations are being done for efficiencies and that means less content, fewer journalists and less diversity in both content and staff."²⁴

As has been demonstrated throughout this filing, newspapers play a key role in keeping citizens informed about news and information in their local communities. Relevant and important information that appears in newspaper products in print and online are not limited to the subscribers. The information provided by newspapers is repeated and reproduced online in many places, some properly and some without permission. Despite the financial difficulties of newspapers, it remains an important, and diverse, point of view for citizens to get their local news and information.

The CWA believes that any solutions must reward content creators and create more genuine information. The CWA wants to save news organizations **and** encourage the growth of new ones. There are many ideas worth enacting before considering more media consolidation – vouchers to citizens to pay for media of their choice;²⁵ tax breaks for low-profit news organizations that commit to a stated social purpose, like L3Cs;²⁶ tax credits for working journalists or tax credits for employing journalists.

²⁴ *Remarks of Bernard J. Lunzer, TNG-CWA President, FCC Media Ownership Workshop, Tampa, FL, April 20, 2010*
<http://transition.fcc.gov/ownership/workshop-042010.html>.

²⁵ *Citizens' news vouchers: \$200 for everyone?* <http://reboot.fcc.gov/futureofmedia/blog?entryId=282115>

²⁶ *Wikipedia* <http://en.wikipedia.org/wiki/L3C>

The CWA believes the content produced by newspapers is a public good that is worth saving. If all the FCC does is lift the cross-ownership ban entirely, it will have done nothing to preserve or promote quality information. In fact, it will speed up the demise of journalism while preserving a cash flow for some.²⁷

VI. Conclusion

The CWA is grateful for the opportunity to participate as the Commission reviews policies designed to create a marketplace for a combination of competition, localism and diversity. The CWA firmly believes allowing more consolidation or concentration of media ownership would irreparably harm ownership opportunities for women and people of color. In addition, relaxing cross-ownership rules with newspapers would be harmful for citizens who need a variety of viewpoints to be better informed about issues that affect their lives. Some believe the growth of the internet and mobile platforms means communities are getting a variety of viewpoints. But, the facts show otherwise. The Commission should not impede the many experiments to fill the news void left by diminished newspapers and broadcast news staff by allowing the traditional media to crowd out the many start-ups. This is not the time to stifle innovation by letting the leading media organizations combine to dominant the landscape.

The Commission should repair the damage done by broadcasters who enter into SSAs that do nothing to add viewpoint diversity to local news and information but, rather, end up with multiple stations controlled by one owner in a market without having to follow the rules of diverse viewpoints called for by the Commission.

The Commission should focus its efforts on improving and creating opportunities for minorities and women before relaxing any ownership rules.

²⁷ Lunzer, *FCC Media Ownership Workshop* <http://transition.fcc.gov/ownership/workshop-042010.html>.